

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

JOSEPHAT HENRY, ET AL.,

PLAINTIFFS,

V.

ST. CROIX ALUMINA, LLC, ET AL.,

DEFENDANTS.

CIV. No. 99-0036

**OPPOSITION OF ST. CROIX ALUMINA, LLC AND ALCOA INC. TO
ATTORNEY ROHN'S MOTION FOR EXTENSION OF TIME
TO COMPLETE ETHICS CLE**

St. Croix Alumina, LLC and Alcoa Inc. oppose¹ Attorney Rohn's motion for extension of time to complete ethics CLE (Doc. No. 1446) for the following reasons:

1. The deadline set by this Court for the completion of the ethics CLE is December 31, 2011, not December 5, 2011 as represented in the motion.
2. Attorney Rohn has offered no evidence to demonstrate a good faith effort to comply with this Court's September 1, 2011 order (Doc. No. 1411). It is almost a certainty that the trials that Attorney Rohn asserts prevented her from

¹St. Croix Alumina and Alcoa are authorized to represent that Glencore, Ltd. joins in this response.

attending CLE were scheduled at the time this Court's order was entered.² In order to ascertain whether there is good cause to extend the deadline, Attorney Rohn should have provided the Court with, at a minimum, the following:

- a. A complete copy of her calendar from September 1, 2011 through December 31, 2011;
- b. A statement as to what non-trial dates she had available between September 1, 2011 and December 31, 2011 and why these dates were not available to take the CLE;
- c. A statement as to what efforts she has made to schedule the required courses on dates when she was not in trial.
- d. A statement as to why she is unable to complete the CLE in the remaining dates available to her in December. There are a number of ethics programs that are available in late December that would meet this Court's requirements. For example, the New Orleans Bar Association offers its "Procrastinators' Programs" on December 14, 15, 21, 22, 27, 28,

² The trial in this case was set for October 25, 2011 by order entered June 9, 2011. *See* Doc. No. 1395. Undersigned counsel was scheduled to go to trial in Superior Court in a case with Attorney Rohn set for the week of October 17, 2011 and the trial order in that case was entered on April 28, 2011. (The case settled on October 13, 2011.) A search of ECF records indicates that Attorney Rohn was due to go to trial on November 28, 2011 in *De La Cruz, Jose v. Virgin Islands Water and Power Authority*, 1:07-cv-00009-JEJ-GWC by virtue of a trial management order entered July 6, 2011 (Doc. No. 401) and in *Romulus et al v. The Bank of Nova Scotia*, 3:10-cv-00064-JRS-RM on December 5, 2011 by virtue of a trial management order entered on October 12, 2010 (Doc. No. 10). Thus, at least four of the trials scheduled between September 1, 2011 and December 31, 2011 were scheduled at the time this Court entered the order requiring that Attorney Rohn take the CLE.

and 29, 2010. Each date includes two hours of professionalism and ethics CLE. <http://www.neworleansbar.org/PP11OverviewCLE.html>.

- e. A statement as to what efforts she made to schedule the CLE in the free time that became available to her when her scheduled trials were settled or continued.³ (This should include the dates that the cases were settled the length of time set aside for the trial in each case; and a description of the efforts made to schedule CLE during the newly-available time; so that the Court can ascertain whether Attorney Rohn made reasonable efforts to comply with its Order).
- f. A detailed description of the “Ethics CLE” that “Lee J. Rohn has signed up for” in the February 11-15, 2012 time frame in Phoenix, Arizona as asserted by Attorney Rohn in her motion. The Court can take judicial notice that the American Association for Justice (f/k/a the American Trial Lawyers Association) is scheduled to hold its Winter convention in Phoenix from February 11-15, 2012. During that convention, CLE is offered and only two courses with ethics credit are offered: “Ethical Considerations in the Negotiation Waltz” on February 14 at 8:35 a.m.

³ For example, in this case, a final pretrial conference was scheduled for October 24, 2011 with trial commencing on October 25, 2011. Plaintiff’s counsel represented in the Joint Final Pretrial Order (Doc. No. 1425, ¶30) that trial would take two weeks. The parties agreed to the terms of the settlement on September 27, 2011 and this Court officially removed the case from the trial calendar by order entered on October 18, 2011 (Doc. No. 1444). Thus, Attorney Rohn had two weeks that were freed up for her to take the required CLE yet apparently made no effort to schedule it.

(one hour) and “Ethical Considerations with Social Networking” on February 15 at 10:35 a.m. (one hour). *See* Exhibit A, (copy of the CLE schedules). (The full schedule for all days can be accessed from this link: <http://www.justicewinterconvention.org/schedule.cfm>.)

3. If the above courses are the “Ethics CLE” that Attorney Rohn has enrolled in, then it seems unlikely that Attorney Rohn will comply with the intent of this Court’s Order by taking those courses. The Order specifically required that Attorney Rohn take CLE “in legal ethics or professionalism.” Order, Doc. No. 1411. Defendants believe the intent of the Court’s Order was to require Attorney Rohn to take courses in which the course materials were directed at either the general rules of legal ethics or lawyer professionalism – not to take a course on, for example, ethics when sending “tweets.”
4. Should the Court grant Attorney Rohn's motion, Defendants respectfully submit that any order extending the time should make it clear that (1) the CLE hours must be in addition to those required by the Supreme Court of the Virgin Islands for the particular year in which the hours are earned and (2) that the content of the courses must be dedicated to either lawyer professionalism or the ABA Model Rules of Professional Conduct in general.

CONCLUSION

Defendants do not believe that Attorney Rohn has shown good cause for an extension and therefore respectfully submit that the motion should be denied.

Respectfully submitted,

/s/ Andrew C. Simpson
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 9, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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